IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3536 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIRECTOR, AUTO POWER ACCUMULATORS PVT.LTD.

Versus

STATE OF GUJARAT & OTHERS

Appearance:

MR TRILOK J PATEL for Petitioner

MR MA BUKHARI AGP for Respondent No. 1

M/S MG DOSHIT & CO for Respondent No. 4

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 08/03/2000

ORAL JUDGEMENT

Rule. Mr. M.A.Bukhari, Assistant Government Pleader waives service of rule on behalf of the State of Gujarat -respondent no.1. In the facts and on the circumstances of the case, matter is taken up for final hearing.

2. This petition is filed by the petitioner for appropriate writ, order or direction quashing and setting aside the order at Annexure B dt. 19th August, 1996 passed by the General Manager & Joint Commissioner of Industries, District Industries Centre, Vadodara.

3. The case of the petitioner was that it was a small scale industrial unit situated at village Tundav, Taluka Savli, District Vadodara. According to the petitioner, the State of Gujarat has brought out a scheme known as "Capital Investment Subsidy Scheme 1990-95". In pursuance of that scheme, the petitioner applied for grant of subsidy and accordingly an order was passed on 19th August 1996, Annexure : B to the petition, in which it was mentioned that on the basis of the decision taken at 59th Meeting held on 24th June, 1996, the petitioner would be entitled to subsidy amount on the terms and conditions regarding capital investment as proposed in the said communication. Suddenly, however, by the impugned communication dt. 19th February, 1998, it was mentioned that earlier decision was revised and instead of Rs.6,35,365/-, the amount was revised to Rs.1,28,155/-. Before reduction of amount and revising it, no notice was issued, no explanation was sought for and no hearing was afforded to the petitioner. In the circumstances, the petitioner issued a notice through his advocate on 5th August, 1998 in which it was specifically stated that though the decision adverse to the petitioner was taken, no notice was issued, no explanation was sought for and opportunity of hearing was not afforded to the petitioner. It was, therefore, not within the power and jurisdiction of the authority to take such a decision ex-parte which was prejudicial to the petitioner. Even thereafter, reminders were also sent. Ultimately, by communication dt. 28th December, 1998, the petitioner was informed that the decision was taken and it was decided by the authorities that certain factors would not be taken into consideration for the purpose of grant of subsidy and hence the decision taken by the authorities could not be said to be illegal or contrary to law.

4. In my opinion, the petitioner deserves to be allowed only on one ground that before taking the decision, no notice was issued, no explanation was sought for and no opportunity of hearing was afforded. As is clear, on the basis of the decision taken in pursuance of 59th Meeting held on 24th June, 1996, the petitioner was entitled to subsidy. If any decision was to be taken revising the said decision and reducing the amount of subsidy, it was obligatory on the part of the respondent authorities to afford an opportunity of hearing to the petitioner. Since it was not done, the impugned order deserves to be quashed and set aside and hence only on that ground, the petition is allowed. The impugned order dt. 19th February, 1998 passed by the General Manager & Joint Commissioner of Industries, District Industries

Centre, Vadodara and consequential action are hereby quashed and set aside. It is open to the competent authority to take appropriate decision in accordance with law after affording an opportunity of hearing to the petitioner. Rule is made absolute to the aforesaid extent. No order as to costs.

Date:08-03-2000. (C.K.THAKKAR, J.)
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